

State of Michigan

FORTY-SECOND CIRCUIT COURT

Michael J. Beale
Circuit Judge
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May 25, 2010

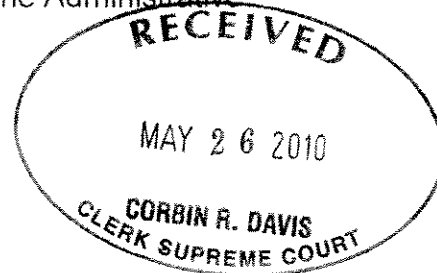
Michigan Supreme Court
ATTN: Clerk of the Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2010-08

Dear Clerk:

We provide the following response to proposed Order 2010-08 regarding the modification of Administrative Order 2003-7. We thank the Court for considering our comments in regards to this matter.

The first suggestion is to modify the language in which the State Court Administrative Office will not "intend" to use the data collected in a punitive fashion or to publish the data for public review. We do not understand why there is not a desire to simply indicate the State Court Administrative Office does not intend to use this information in such a way. When will the State Court Administrative Office use this information in a punitive fashion or when will it decide to make it available for public review? It does not seem appropriate for the Administrative Order to simply hedge its bets and leave that as a discretionary thing to be determined by the State Court Administrative Office without any guidelines or basis for trial judges to know how this information may be utilized. Our suggestion is to simply indicate the State Court Administrative Office will not use the data in a punitive fashion or to publish the data for public review. If there is a need to leave an opening for use in disciplinary proceedings or similar type actions, then it's suggested there be indications in the Administrative Order for such possibilities.




In the next paragraph of the Administrative Order, the additional language about discouraging the practice of dismissing cases for the sole reason to come within the guidelines should be stricken. This does not seem to be something we should be indicating to the public as being done or has been done and certainly can be communicated to those courts actually doing it instead of having it look as if it is a universal practice. We have no problem with retaining the last sentence which notes the ability for judicial discretion to be exercised when time beyond the guidelines is required.

The time frame of 35 days which is utilized for submission of matters to the bench should also have some additional language which allows discretion if additional time is warranted or the matter necessitates additional time. However, if the provision in the preceding paragraphs indicating judicial discretion is allowed upon the showing of good cause, then we have no problem with continuing the same provision which has simply been relocated in the Administrative Order.

We have no objections to the modification of the time frames and the elimination of the interim guidelines. We appreciate the consideration for the extensions of some of the first guideline time frames and find them to be much more realistic in the Court addressing the matters submitted to the Circuit Court. Please note we simply make comment as to the procedures for the Circuit Court and leave the other trial court Judges to address circumstances in their court.

Once again, we thank you for your consideration of our comments and for the work in addressing some legitimate issues that have arisen regarding the case management guidelines.

Very Truly Yours,



Jonathan E. Lauderbach
Chief Circuit Judge



Michael J. Beale
Circuit Judge

/ljw